IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 1.2.2007

CORAM

THE HONOURABLE MR.JUSTICE R.SUDHAKAR

Writ Petition No.6097 of 1999

Chenrayar Perumal Temple,
represented by its Managing Trustee,
R.Hariram,
32, Market Street, Guhai,
Salem-6. ... Petitioner

-Vs.-

1.The District Collector,
Salem.

2.The Special Tahsildar,
(Adi Dravidar Welfare).
Salem. ... Respondents

Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorari, calling for the records of the first respondent comprised in the proceedings in Roc.No.101196/97(DB) dated 20.3.1999 and published in the Salem District Gazette dated 22.3.1999 and to quash the same as published in the Salem District Gazette dated 22.3.1999.

For petitioner : Mr.V.Ramajegadeesan

For respondents : Mr.A.Edvin Prabhakar,
Government Advocate.

O R D E R

Notification under Section 4(1) of the Land Acquisition Act (Act 31 of 1978) is challenged on the ground that after the report was submitted to the District Collector, no order as contemplated under Section 4(3)(a) of the Act was passed by the District Collector. On the contrary, the same was passed by the Personal Assistant to the District Collector. Relying on Jainabi vs. The State of Tamil Nadu (2006(5) CTC 163), the Notification under Section 4(1) of the Act is challenged.

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2. Para 6(3)(e) of the counter-affidavit, which is relevant to decide the present case reads as follows:-

> 6(e) The Personal Assistant to the Collector is empowered to pass orders on behalf of the Collector, Salem, so there is no violation of the procedure contemplated under Section 4(3)(a) and (b) of the Act."

and confirms the contention of the petitioner that the District Collector has not passed the order as contemplated under Section 4(3)(a) of the Act.

3. The District Collector has to exercise the power under the Act. The delegation of such power is not contemplated nor it has been shown that such power can be delegated for the aforesaid purpose and therefore the proceedings are vitiated. See A.I.R. 1976 SC 789 Hukam Chand v. Union of India. Consequently, Notification under Section 4(1) of the Act is quashed with liberty to proceed with the matter, if so advised. The writ petition is allowed. No costs.

kb/ts

Sd/
Asst. Registrar

/true copy/

Sub Asst.Registrar

To

1.The District Collector,
Salem.

2.The Special Tahsildar,
(Adi Dravidar Welfare).
Salem.

1 CC TO THE G.P, HC, MS SR 6110/07

1 CC TO MR.V. RAMAJEGADEESAN, ADVOCATE SR 6137

Order in
W.P.No.6097 of 1999
1.2.2007

KA(CO)
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